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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

**IN RE GOOGLE PLAY STORE
 ANTITRUST LITIGATION**

THIS DOCUMENT RELATES TO:

*In re Google Play Consumer Antitrust
 Litigation*, Case No. 3:20-cv-05761-JD

State of Utah et al. v. Google LLC et al.,
 Case No. 3:21-cv-05227-JD

Case No. 3:21-md-02981-JD

**ADMINISTRATIVE MOTION TO
 CONSIDER WHETHER ANOTHER
 PARTY'S MATERIALS SHOULD BE
 SEALED RELATING TO NOTICE OF
 FILING OF DECLARATION OF DR.
 GREGORY K. LEONARD**

Judge: Hon. James Donato

Pursuant to Civil Local Rules 7-11 and 79-5(c-f), Defendants Google LLC, Google Ireland Limited, Google Commerce Ltd., Google Asia Pacific Pte. Ltd., and Google Payment Corp. (collectively, “Google”) respectfully submit this Administrative Motion to Consider Whether Another Party’s Material Should Be Sealed Relating to Google’s Notice of Filing of Declaration of Dr. Gregory K. Leonard In Response to Court’s Order Re Dr. Singer’s Proposed Expert Testimony (“Motion to Seal”). The excerpts at issue in this Motion to Seal are sourced from documents that are designated as “NON-PARTY HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL EYES ONLY” pursuant to the Protective Order entered by the Court, ECF No. 248. A redacted version of the exhibit to Notice of Filing of Declaration of Dr. Gregory K. Leonard In Response to Court’s Order Re Dr. Singer’s Proposed Expert Testimony has been filed in accordance with the Local Rules.

Subsection (f) of Civil Local Rule 79-5 sets forth procedures that apply when a party seeks to file information designated as confidential by another party. Under subsection (e), the “motion must identify each document or portions thereof for which sealing is sought” and “serve the motion on the Designating Party the same day the motion is filed.” Pursuant to subsection (f)(1), the Designating Party has seven days to “file a statement and/or declaration” to establish why such designated material should be kept under seal pursuant to subsection (c)(1) of Civil Local Rule 79-5.

Civil Local Rule 79-5 provides that documents, or portions thereof, may be sealed if a party establishes that the documents are privileged, protectable as a trade secret, or otherwise entitled to protection under the law. A “strong presumption” of access to judicial records applies to dispositive pleadings, and a party seeking to seal those records must show “compelling reasons.” *Primus Grp., Inc. v. Inst. for Env’t Health, Inc.*, 395 F. Supp. 3d 1243, 1267 (N.D. Cal. 2019) (citations omitted). Compelling reasons justifying the sealing of court records generally exist “when such court files might have become a vehicle for improper purposes, such as the use of records to gratify private spite, promote public scandal, circulate libelous statements, or release trade secrets.” *Kamakana v. City & Cty. of Honolulu*, 447 F.3d 1172, 1179 (9th Cir. 2006)

(internal quotation marks omitted). However, “[t]he mere fact that the production of records may lead to a litigant’s embarrassment, incrimination, or exposure to further litigation will not, without more, compel the court to seal its records.” *Id.*

Google identifies the following portions of its Notice of Filing of Declaration of Dr. Gregory K. Leonard In Response to Court’s Order Re Dr. Singer’s Proposed Expert Testimony and supporting papers as containing information designated as confidential by another party:

Document	Portion Containing Designated Information	Designating Party
Exhibit 1	Page 13, Paragraph 19 (between “shares of” and “respectively as of”)	Rosetta Stone, Duolingo, and PictureThis
Exhibit 1	Page 13, Paragraph 19 (between “Duolingo (” and “versus”)	PictureThis
Exhibit 1	Page 13, Paragraph 19 (between “versus” and “) simply”	Duolingo
Exhibit 1	Page 13, Paragraph 19 (between “Rosetta Stone (versus” and “as predicted by”)	PictureThis
Exhibit 1	Page 13, Paragraph 19, Table (all figures under “Category Share” and “Logit Model’s Assumption Regarding Percentages of Switching from ‘Rosetta Stone’ to ‘Duolingo’ and ‘PictureThis – Plaintiff Identifier’” columns)	Rosetta Stone, Duolingo, and PictureThis

1 Dated: August 14, 2023

By: /s/ Sujal J. Shah
Sujal J. Shah

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